

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT MASSACHUSETTS

FILED  
CLERK'S OFFICE

MARK M. THORNTON,  
Plaintiff

V.

NORTHEAST BUILDERS TRANSPORT, INC. )  
And BARRY N. EHRSTEIN, )  
Defendants )

2005 APR 11 P 1:18

U.S. DISTRICT COURT  
DISTRICT OF MASS.

) CIVIL ACTION No. 03-12521-RGS

JOINT ASSENTED TO MOTION TO CONTINUE

NOW COME the parties, by and through their undersigned counsel,  
and request a continuance of the Jury Trial set to begin Monday,  
May 16, 2005 and in support thereof state as follows:

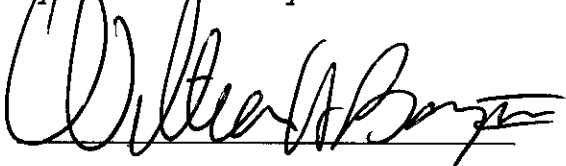
1. The Honorable Court issued an Order setting the case for trial on Monday, May 16, 2005.
2. The case at bar is a tort case in which the Plaintiff is seeking damages from the Defendants, and jurisdiction is had in the United States District Court based upon diversity of citizenship, 28 U.S.C. § 1322(a)(1).
3. The case at bar has no unusual issues as to liability, and the case primarily focuses on the extent and causal connection of the Plaintiff's alleged damages.
4. The parties have exchanged all medical records and reports with each other.
5. The case has been scheduled for private mediation on July 6, 2005 from 2:00 p.m. until 6:00 p.m. with Paul Finn of Commonwealth Mediation and Conciliation, Inc.

6. The parties believe that this case may be resolved with the assistance of a private mediator because the primary issue to be resolved is one of damages.
7. Both counsels have advised their clients of this request for continuance, and have received their clients' assent to it.
8. Neither party will be prejudiced by the granting of this motion because this is the first request for a continuance, the parties may benefit by private mediation, and the parties will save the time, effort and expense of trial if the mediation is successful.
9. The parties request that the case be continued to the October Trial Calendar to accommodate the summer vacation schedules of their respective medical witnesses.

WHEREFORE, the Parties respectfully prays the Honorable Court:

- A. Grant this Joint Assented to Motion to Continue;
- B. Reschedule this case for the October 2005 trial calendar; and
- C. Grant such other relief as may be just and equitable.

Plaintiff,  
Mark M. Thornton  
By his Attorney



William H. Barry III  
Massachusetts BBO#545547  
BARRY LAW OFFICE  
161 Kinsley Street  
Nashua, New Hampshire 03060  
603-883-0474

Defendant,  
Northeast Builders Transport, Inc.  
and Barry N. Ehrstein,  
By their attorneys,



Michael B. Weinberg, BBO #519500  
Jessica L. Mooney, BBO #658822  
DONOVAN HATEM LLP  
Two Seaport Lane  
Boston, Massachusetts 02210  
617-406-4500

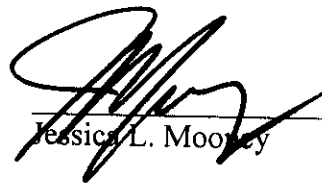
Dated: April  2005  
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**CERTIFICATE OF SERVICE**

I, Jessica L. Mooney, hereby certify that on this day I caused a copy of the foregoing to be sent by first class mail, postage prepaid to the following counsel of record:

William H. Barry, III, Esq.  
Barry Law Office  
255 Main Street  
Nashua, New Hampshire 03060

Dated: April 11, 2005

  
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Jessica L. Mooney